

**A Guide to Getting Your  
Discharge Prevention, Containment and  
Countermeasure (DPCC)  
and  
Discharge Cleanup and Removal (DCR) Plans  
Approved by the NJDEP**

**Revised 7/15/97**

## BACKGROUND

During 1989 and 1990 there were catastrophic discharges of petroleum oil worldwide, including in New Jersey. As a result, the New Jersey Legislature enacted a number of amendments to the Spill Compensation and Control Act. Their goal was to reduce the possibility of discharges of hazardous substances to the environment and minimize the consequences if they did occur.

The New Jersey Department of Environmental Protection responded to these changes to the Spill Act. The Department adopted rules (N.J.A.C. 7:1E et seq.), effective September 12, 1991, which provide standards for discharge prevention along with emergency response requirements. Based on the experience of the Department in implementing these rules and on comments from the regulated community, the rules were amended effective June 1996 and again when they were readopted effective October 1996. These rules contain a number of requirements. Among these requirements is one that affects many facilities: all major facilities in New Jersey must prepare and submit DPCC and DCR plans. Then the department must evaluate these plans and either approve or deny them.

This brief document discusses who must submit DPCC/DCR plans, how the department goes about reviewing the plans, and a number of pointers towards achieving plan approval.

## DEFINITIONS

**DPCC** stands for Discharge Prevention, Containment and Countermeasure. The purpose of the DPCC plan is to prevent discharges from occurring, and if they do occur, to reduce any effects on the environment as much as possible. Items which must be included in the DPCC plan are general information about the facility, a site plan, a drainage and land use map and a topographical map as well as information on storage areas, loading/unloading areas, secondary containment systems, marine transfer areas, flood hazard areas, leak detection procedures, housekeeping and maintenance, personnel training, physical security measures, standard operating procedures, recordkeeping, and a schedule to upgrade.

**DCR** stands for Discharge Cleanup and Removal. The DCR plan addresses what the facility will do if a discharge does occur in spite of precautions. The information the DCR plan must contain includes a summary of the facility's on-site response measures, a list of available equipment and personnel, an off-site deployment priority plan, an environmentally sensitive areas protection plan, an agreement with the local emergency planning committee, and proof of financial responsibility.

## WHO IS REGULATED

To decide if a facility is required to submit plans, the facility owner or operator must first determine if any hazardous substances are stored on site. Petroleum, petroleum products, and any substance listed in Appendix A of N.J.A.C. 7:1E, by name or by substance group, are hazardous substances, by definition, with two exceptions certain size metal solids and gases with an asterisk. A hazardous substance could be a solid, liquid, or gas. Many facilities store hazardous substances. But only **major facilities** are required to submit DPCC/DCR plans to the department. A major facility is defined as a facility with a total storage capacity of

- 20,000 gallons or more of hazardous substances other than petroleum products;
- 200,000 gallons or more of all hazardous substances including petroleum products; or
- an equivalent measure for substances not commonly measured by volume.

The Division of Taxation in the Department of the Treasury has defined this equivalent to be 8.352 pounds per gallon at 60 degrees Fahrenheit.

By definition, storage capacity is "that capacity which is dedicated to, used for, or intended to be used for storage of hazardous substances of all kinds." (N.J.A.C. 7:1E-1.6) This may include aboveground and underground storage tanks, drums, reservoirs, containers and bins, even open space. The intended purpose of the structure in question must be evaluated. For example, the question often comes up about tank cars and tank trucks. These are normally used for transportation, not storage. However, if they are parked and never intended to be used for transportation again, they must be considered storage capacity.

## SCHEDULE FOR SUBMITTING DPCC/DCR PLANS and PLAN RENEWALS

All **existing** major facilities must have submitted their DPCC/DCR plan by August 1, 1994. Once the DPCC/DCR plan has been approved, the dates contained in the schedule for upgrading the facility must be met.

For **new** major facilities, a DPCC/DCR plan is due 180 days prior to the anticipated operational date. The approved plan must be implemented **prior to** operating the new facility.

A **DPCC/DCR plan renewal** must be submitted at least once every three years following approval or conditional approval of the original DPCC/DCR plan. It is required that renewal requests be submitted at least 180 days prior to the expiration of the approved plan.

## PLAN REVIEW PROCESS

To understand how you can get your DPCC/DCR plan approved, you must understand how the plan review process works. A typical plan review would likely proceed as shown on the attached flowchart:

1. The facility submits its DPCC/DCR plan
2. The department has 60 days to review the plan for administrative completeness. This review will determine if all required items are addressed and, if they are addressed, whether they are detailed enough to begin a technical review.
3. Your facility will receive a letter regarding the status of the DPCC/DCR plan, saying that the plan is either complete, or incomplete, and, if the plan is incomplete, what information is needed and the date by which that information is due.
4. The technical review will not begin until plans are administratively complete. Once a plan is complete, the department has 180 days to either approve or deny it.
5. During the Technical Review the plan is examined in depth. It is reviewed for consistency with the rules and for practicality. Also, a visit to the facility will be made to get an overview of the facility and find any obvious problems either with the facility or in the owner or operator's understanding of the rules.
6. During the technical review process, any technical problems with the plan are cleared up, if possible.
7. Once this review process is complete a determination must be made:
  - a. If everything, including the drainage and land use map, topographical maps and proof of financial responsibility, is acceptable, the plan will be approved;
  - b. If everything, except the maps and/or proof of financial responsibility, is acceptable, and an effort is being made to complete the maps and/or the financial documents, the plan will be conditionally approved; or
  - c. If the plan is not acceptable, it will be denied

Obviously the goal is to have the DPCC/DCR plan approved. Following are a number of recommendations that will be of assistance as the facility moves towards plan approval.

## RECOMMENDATIONS

### 1. **Read the rules**

This may seem obvious, but more than one plan has been submitted where the person who prepared the plan had not taken the time to actually read the rules to see what was required. Also remember that while DPCC plans have been required for a number of years, the existing rules and list of regulated substances are not the same as the former Discharge Prevention rules. Any plans which were prepared under the old rules should not be merely resubmitted without change.

### 2. **Request a project manager**

It is recommended that you write to the Bureau of Discharge Prevention to request a project manager well before the deadline for your plan submittal. Plan renewal reminder letters that are sent to each facility include the project manager's name. Your project manager will be available to answer any questions you might have about the rules or about plan preparation, and will perform the actual DPCC/DCR plan reviews. This will also give consistency and continuity to the plan review process. The project manager will not, however, write the plan for you.

Also it is recommended that you request a preplanning meeting with your project manager to discuss the rules in general and get answers to any questions you may have. Progress meetings may be held during the plan preparation. This will allow the project manager to keep you on track so you don't needlessly waste time and money and, also, to keep your project manager informed. This will significantly expedite the review and approval of your plan.

### 3. **If you are not sure about something, ask - don't guess**

Ask your project manager - don't guess. You may guess right, but then again, you may not. If you feel a meeting would be helpful, schedule one with your project manager.

### 4. **Obtain and read all available guidance documents**

Currently, several guidance documents are available. More will be prepared as the need arises. They cover topics such as environmentally sensitive areas, inspecting and testing aboveground storage tanks, combining the DPCC/DCR plan with the Federal SPCC plan, and changes made to the list of hazardous substances in Appendix A.

### 5. **The plans should show how your facility is complying with the rules**

When preparing the DPCC/DCR plan, go through the rules and address the requirements of each paragraph in the plan itself. If an item is not applicable, say so. If some particular issue is not addressed in the plan when it is submitted, it will have to be dealt with during the technical review. So it is better to get everything done up front, rather than during the technical review process when you may only have 30 days to get all technical issues in the plan answered.

### 6. **Make the plans specific to your facility**

Make the plans specific to YOUR facility. The rules do recognize that every facility is different and that every requirement may not apply to every case. Consequently, if you can establish that your facility can protect against a discharge equally well using some method other than what is in the rules, this is allowable.

In line with this point, if you make any statement about the conditions at the facility in the plan, you should be prepared

to back it up. An example would be where you think that a secondary containment system will protect the groundwater for as long as it takes to clean up a leak. If the area is not impermeable, soil permeability test results or other data may be necessary to substantiate such a claim.

7. **Be prepared to do what your DPCC/DCR plans say you will do**

If you state that all upgrades will be completed within 2 months of plan approval, we will expect the work to be done by the end of those 2 months. If a consultant has prepared the plan, read it carefully. If you don't agree that what the consultant wrote is accurate, get it fixed. Once the plan is approved, the facility is required to abide by it in its entirety. The Field Verification Section staff will be inspecting your facility to ensure that upgrades are completed according to the schedule in your approved plan.

8. **Review the DPCC/DCR plan administrative completeness checklist before submission**

The administrative completeness review is performed using the DPCC/DCR Plan administrative completeness checklist. You should review the checklist and evaluate your own plan before submitting the plan to the department. A copy of this checklist is available upon request.

9. **Comply with all deadlines for submittals**

Failure to complete a plan, whether administratively or technically, is grounds for denial of the plan. If you have a good reason for needing an extension, ask for the extension in writing. However, plan due dates are set in the rules and, therefore, may be extended only by Administrative Order.

10. **Keep the DPCC/DCR plan current**

The DPCC/DCR plan is intended to be a living document. This requires notifying the bureau in writing sixty (60) days prior to the commencement of proposed new construction **and** submitting **Plan Amendments** within thirty (30) days of any changes having taken place that will materially affect your facility's potential for discharge or the substance of the plan. Failure to do so may result in enforcement actions.

## AVOIDING OTHER COMMON ERRORS OR MISCONCEPTIONS

1. The general site plan must be certified by a **Licensed Land Surveyor**.
2. The plan must include the schedule for future integrity testing. Please note, integrity testing for aboveground storage tanks greater than 2,000 gallons consists of **three (3) parts**:
  - a. A leak test (e.g. hydrostatic, product static or pneumatic test);
  - b. A non-destructive test (e.g. ultrasonic, acoustic emission or radiography among others); **and**
  - c. An internal visual inspection.

For additional guidance please see “A Guide to the Inspection and Testing of Aboveground Storage Tanks”

3. Aboveground storage tanks greater than 2,000 gallons are required to have a **REDUNDANT** overfill protection system that consists of the following:
  - a. A high level alarm with an audible or visual signal; **and**
  - b. One of the following:
    - i. A high high liquid level pump cutoff device;
    - ii. Direct communication between tank gauger and pumping station; or
    - iii. Fast response systems for determining liquid levels and rapid shutdown of pumping.
4. The plan must describe the secondary containment provided for **all storage, transfer AND process areas**.
5. Flood hazard area information may be obtained from the FEMA maps and personal knowledge of the facility. Use the FEMA maps to determine if any portion of the facility, where hazardous substances are stored, transferred, processed or utilized, is within the 100 year flood plain. Personal knowledge of the facility is required to describe in the plan other areas prone to local flooding.
6. All required visual inspections must be documented and records kept.
7. The DPCC/DCR plan must be certified by a corporate official of at least the level of Vice President. Delegation of authority is **NOT** permitted. If the highest ranking individual to sign the certification statement in N.J.A.C. 7:1E-4.11(a) is at least the level of a Vice President, then the certification statement in N.J.A.C. 7:1E-4.11(b) is not required.
8. The plan must include a brief description of the on-site **and** off-site response measures. Referencing a document that is not part of the DPCC/DCR plan is unacceptable.
9. Since discharge cleanup organizations (DCO) are no longer required to register with this bureau, a list of the types and quantities of cleanup and removal equipment and materials your facility **and** the DCO will provide in the event of a discharge must be included in the plan. Also, a list of the individuals or titles and qualifications of the personnel your facility **and** the DCO will provide to respond to leaks or discharges must be included in the plan.
10. The financial responsibility documents must be worded **EXACTLY** as in Appendix B of N.J.A.C. 7:1E. Please note, these documents must be updated annually and kept on-site. They only need to be submitted during the initial review, three year renewal or when specifically requested.



By law, the Bureau of Discharge Prevention has 180 days in which to either approve or deny a plan. Rejecting a plan really does not accomplish anything positive. We want to **APPROVE** plans. We do recognize the complexity and cost associated with compliance, and we intend to make instructions and guidance as clear and simple as possible. For this reason, numerous guidance documents have been developed. As an aid to getting the plans approved as quickly and painlessly as possible, we encourage contact with our group before and during preparation of the plans. A project manager will be assigned to any facility that requests it, whether your plan is currently in preparation or your facility is only in the planning stages. The project manager will work with you to help interpret and clarify the regulations and answer any questions as to how to accomplish the requirements.

To request a project manager, please write to the following address:

NJ Department of Environmental Protection  
Bureau of Discharge Prevention  
P.O. BOX 424  
Trenton, NJ 08625-0424

Attention: Beth Reddy

For more information about the Discharge Prevention program, please send in the attached Information Request form or call the Bureau of Discharge Prevention at (609) 633-0610.

Hopefully, this will make your job of coming into compliance with the rules a little easier.